

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
MARTINSBURG

**DARREN OLIVER ROBINSON,**

Petitioner,

v.

**CIVIL ACTION NO. 3:05-CV-41  
CRIMINAL ACTION NO. 3:04-CR-52  
(BAILEY)**

**UNITED STATES OF AMERICA,**

Respondent.

**JUDGMENT ORDER**

By Standing Order entered on March 24, 2000, and filed in this case on May 11, 2005, this action was referred to United States Magistrate Judge James E. Seibert [Civ. Doc. 4] for submission of proposed report and a recommendation ["R & R"]. Magistrate Judge Seibert filed his R & R on April 4, 2007 [Crim. Doc. 59]. In that filing, the magistrate judge recommended that this Court grant Respondent's Motion to Dismiss [Crim. Doc. 46] and deny Petitioner's Motion to Vacate, Set Aside, or Correct Sentence Pursuant to 28 U.S.C. § 2255 [Crim. Doc. 37] and dismiss this matter without prejudice from the Court's docket.

The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. ***Thomas v. Arn***, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review and the petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); ***Snyder v. Ridenour***, 889 F.2d 1363, 1366 (4<sup>th</sup> Cir. 1989); ***United States v. Schronec***, 727 F.2d 91, 94 (4<sup>th</sup> Cir. 1984). Here, objections to Magistrate Judge Seibert's R & R were due

within ten (10) days after being served with a copy of the R & R pursuant to 28 U.S.C. § 636(b)(1) and Fed.R.Civ.P. 72(b). No objections have been filed.

The Court adopts the recommendations of Magistrate Judge Seibert. Accordingly, the Court hereby **GRANTS** Respondent's Motion to Dismiss [Crim. Doc. 46] and **DISMISSES** Petitioner's § 2255 petition [Crim. Doc. 46] **without prejudice as premature**. The Court hereby **ORDERS** that this matter be removed from the Court's docket.

The Clerk is directed to mail a certified copy of this Judgment Order to all counsel of record, the plaintiff, pro se, and Magistrate Judge Seibert.

**DATED:** May 17, 2007.

/s/ John Preston Bailey  
JOHN PRESTON BAILEY  
UNITED STATES DISTRICT JUDGE